



MEMORANDUM

Office of the Fire Marshal

To: Dennis Cuciz, Acting Public Works Director
From: Patricia Joki, Fire Marshal *PJoki*
Through: Clare Frank, Fire Chief
Subject: Hazardous Vegetation Abatement Along Highway off-ramps
Date: September 27, 2005

According to the City Attorney, the Fire Marshal's Office has no authority to enforce weed abatement and combustible vegetation codes and ordinances against a state agency, even though the hazardous condition lies within the City limits.¹

The City Attorney discussion mentioned that the City could enter into an agreement with CalTrans to clear the affected areas. The Fire Marshal's office has not instigated the collaborative process discussed in the City Attorney memo, but has notified CalTrans of the hazard and requested abatement with regard to clearance of vegetation along Jacklin Road Calaveras Boulevard and Montague Expressway off-ramps. Fire staff contacted Cal Trans on the following dates to request abatement with the following response:

June 1, 2005 – South Bay Region Manager Robert Salazar advised that the highways would be completed by the middle of the summer weather, equipment and staffing permitting. They will begin with 'off-ramps' where visibility is an issue.

July 22, 2005 – Called to request status; no response. Provided contact information to Public Works for follow up.

September 22, 2005 – Contacted Manager Salazar to address concerns. No return phone call.

September 23, 2005 – Contacted Manager Salazar; no return phone call.

September 26, 2005 – Contacted Raul Herrera; no return phone call.

September 27, 2005 – Contact made with Arthur Delacerda, South Bay Regional Manager. He offered the following status:

- Calaveras Boulevard interchange completed

¹ The codes and ordinances that the Fire Marshal's office can enforce against private and public entities that are not exempt are: (1) the Milpitas Municipal Code V-202 "Weed, Rubbish, Refuse, Dirt Control and Abatement," and (2) California Fire Code Appendix II-A¹ as adopted by Milpitas Municipal Code V-300. In accordance with Appendix II-A brush or vegetative growth is cleared to 10 feet on each side of portions of highways and private streets that are improved where clearance is accessible. Public Works Department clears city maintained streets, Santa Clara County Department of Agriculture is responsible to oversee vegetation clearance and 'fire-breaks' in the hillside areas, as approved by Council resolution, and Cal Trans is responsible for clearance upon highways, interchanges and off-ramps.

- Northbound off-ramp of Jacklin Road to be completed by the end of this week; Southbound Jacklin will not be abated because it is under construction.
- Montague will not be abated for about three weeks due to staffing shortages, and relocating the homeless population prior to beginning work.

Mr. Delacerda stated the City could explore entering into a "letter of consent" that would allow the City to abate vegetation near the off-ramps only; Cal Trans would continue to be responsible for the off-ramps and freeways. He was unclear how a cost recovery process would work under a "letter of consent," but we would be happy to explore that further if CalTrans expresses an interest in entering into an agreement with the City.